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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/650,896

08/28/2003

Carolyn A. Zacks

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7590

05/28/2008

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EXAMINER

PIZIALI, JEFFREY J

ART UNIT

PAPER NUMBER

2629

MAIL DATE

DELIVERY MODE

05/28/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Notice of Non-Compliant  
Amendment (37 CFR 1.121)**

Application No.

10/650,896

Examiner

Jeff Piziali

Applicant(s)

ZACKS ET AL.

Art Unit

2629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 18 February 2008 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other \_\_\_\_\_.
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other \_\_\_\_\_.
- ☐ 3. Amendments to the drawings:
- ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other \_\_\_\_\_.
- ☒ 4. Amendments to the claims:
- ☐ A. A complete listing of all of the claims is not present.
  - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☒ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☐ E. Other: \_\_\_\_\_.
- ☒ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):  
See Continuation Sheet

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

**Extensions of time** are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

**Failure to timely respond** to this notice will result in:

**Abandonment** of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

**Non-entry** of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

/Jeff Piziali/

Primary Examiner, AU 2629

Legal Instruments Examiner (LIE), if applicable

571-272-7678

Telephone No.



Continuation of 5 Other:

The Applicants are thanked for the Amendment filed 18 February 2008. However, several non-compliant matters have been discovered in the aforementioned response, requiring attention before examination may continue.

C.F.R. § 1.121(c) requires, "Amendments to a claim must be made by rewriting the entire claim with all changes (e.g., additions and deletions) as indicated in this subsection, except when the claim is being canceled. Each amendment document that includes a change to an existing claim, cancellation of an existing claim or addition of a new claim, must include a complete listing of all claims ever presented, including the text of all pending and withdrawn claims, in the application. The claim listing, including the text of the claims, in the amendment document will serve to replace all prior versions of the claims, in the application. In the claim listing, the status of every claim must be indicated after its claim number by using one of the following identifiers in a parenthetical expression: (Original), (Currently amended), (Canceled), (Withdrawn), (Previously presented), (New), and (Not entered)"

Firstly, the Amendment filed 18 February 2008 improperly neglects to provide a listing of non-elected claims with the required status identifier (Withdrawn). Instead, non-elected and withdrawn claim 25 (of non-elected Sub-Sub-Species 3) and claim 45 (of non-elected Species V) have the improper status identifier (Original) and (Previously Presented) respectively. The examiner respectfully notes: Such pending non-elected claims must have the status identifier (Withdrawn).

Secondly, although the Applicants request that claim 40 "should be examined"; claim 40 is presently not identified by the Applicants as being drawn to any particular species. Moreover, claim 40 was canceled at the time of the Applicants' initial election (filed 16 November 2007). The examiner respectfully requests a clarification of this claim's status.

Lastly, the Applicants' initial election (filed 16 November 2007) self-imposed an additional restriction/election by stating, "On November 14, 2007, the Applicants' Attorney conferred with the Examiner regarding this Restriction Requirement. In particular, it was proposed that species VI be amended to embodiments that are: drawn to using the display to present content in the form of patterns of emitted light and directing the content so that the content can be discerned only in the viewing space via an image modulator comprising an array of individual micro-lens. It was also proposed that sub-species VI include a sub-sub-sub-species 'a' that have physical light absorbing barriers between each micro-lens as well as a second sub-species 'b' that does not. Accordingly, in response to the Restriction Requirement, Applicants hereby confirm election of Species VI as amended. Within Species VI, the Applicants elect sub-species B, 1, and b. The election is made without traverse" (see page 14).

The present election (filed 18 February 2008) no longer makes any mention to the 16 November 2007 self-imposed "sub-sub-sub-species a & b" restriction/election. It is not clear whether the Applicants' 18 February 2008 election of "Species VI" refers to the examiner's original "Species VI" (see the restriction requirement mailed 16 October 2007); or rather refers to the Applicants' own self-imposed "Species VI" variant (see the election filed 16 November 2007). Furthermore, it is not clear if the Applicants still intend to elect "sub-sub-sub-species b". Nor is it clear what if any presently pending claims are drawn to "sub-sub-sub-species b" if so elected. The examiner respectfully requests the Applicants clarify the status of the self-imposed restriction/election.

The examiner thanks the Applicants in advance for their time, patience, and guidance in these regards.

By such reasoning, this Notice of Non-Compliance is deemed necessary and proper at this time.

Please note: The amendments have not been checked to the extent necessary to determine the presence of all possible non-compliance errors. If additional issues of non-compliance are discovered at the time of a subsequent amendment, yet another Notice of Non-Compliant Amendment will be necessitated. Applicants' cooperation is requested in correcting any other errors of which Applicants may become aware.

/Jeff Piziali/  
Primary Examiner, Art Unit 2629  
16 May 2008

